

Serial No. 09/910,398
Response dated December 7, 2003
Reply to Office Action of 08/07/03

Docket No. 5000-4901

REMARKS

Claims 1-5 are pending in this application. Claims 1, 4, and 5 have been amended herein. Applicant submits that claim 1 has been amended to further clarify the relationship between the previously recited claim elements and that no new matter has been added by way of this amendment. Applicant respectfully requests reconsideration of the above-identified application, in view of the above amendment and following remarks.

Applicant thanks the Examiner for the indication that claims 4 and 5 contain allowable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicant has amended claims 4 and 5, incorporating the elements of independent claim 1. Therefore, Applicant submits that amended claims 4 and 5 are in condition for allowance.

Claim Rejections – 35 U.S.C. § 102

Claims 1-3 are rejected under 35 U.S.C. § 102(b), as being anticipated by Beck, et al. (US Patent No. 4,628,881). Applicant respectfully submits that rejected claims are not anticipated by the Beck patent, in view of the amendments made to further clarify the relationships between elements previously recited in independent claim 1 and the following remarks.

1. Amended independent claim 1 recites, *inter alia*, “wherein there is provided in said fuel supply passage a throttle passage normally communicating with a fuel drain passage upstream from the check valve.” Applicant respectfully submits that the Beck patent does not teach or suggest a throttle passage that normally communicates with a fuel drain passage situated upstream from the check valve, as recited in amended independent claim 1.

The Office Action alleges, “The passage [the hollow interior of piston 130 and fuel drain line 120] is considered to be a throttle passage because there is a valve 121 in the passage.” (See, Office Action, page 3, ¶ 3). Even assuming that check valve 121 does create a throttle passage, any such throttle passage would communicate with Beck’s fuel drain line downstream from the check valve. The Beck patent’s FIG. 5a clearly illustrates that the alleged throttle passage created by metering duct 118, chamber 150, the hollow interior of piston 130, and check-valve 121 communicates with fuel drain line 120 downstream from check-valve 121.

In direct contrast, an exemplary embodiment illustrated in FIG. 1 of the instant application clearly shows that fuel supply port 43 and fuel supply passage 44 connects with the throttle passage formed by throttle hole 65 with first drain passage 46 upstream from check valve 45, as recited in amended independent claim 1. Applicant respectfully submits that the throttle passage normally communicating with a fuel drain passage upstream from the check valve is patentably distinct from Beck’s alleged throttle passage that communicates with fuel drain line 120 downstream from check valve 121.

2. Furthermore, Applicant respectfully traverses the Examiner's characterization of "chamber 150, and the hollow interior of piston 130 in combination [as] form[ing] a fuel supply passage...." The Beck patent discloses, "Liquid fuel at the common rail pressure flows from supply line 16, through metering duct 118 and past the check valve 119 into compression chamber 150." (See, Col. 15, lines 50-52). However, there is no communication between the compression chamber 150 and the hollow interior 130.

Fuel is not intentionally supplied to the hollow interior 130. Beck discloses, "It will be noted that the hollow interior of the large piston 130 provides a large internal space which will receive fuel...due to leakage...." (See, Col. 15, lines 61-64). Applicant submits that fuel is not intended to be supplied to hollow interior 130 and therefore hollow interior 130 is not a fuel supply passage, as recited in claim 1. Accordingly, the Examiner's assertion that check valve 121 and drain line 120 may be considered as a throttle passage in a fuel supply passage normally communicating with a fuel drain passage as recited in claim 1 is also erroneous.

For at least these reasons, Applicant submits that amended independent claim 1 is not anticipated by the Beck, et al. patent. Similarly, for at least these reasons, Applicant submits that claims 2 and 3, which are directly or indirectly dependent on amended independent claim 1, are also not anticipated by the Beck patent. Therefore, Applicant respectfully requests withdrawal of this ground of rejection.

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CONCLUSION

It is now believed that all pending claims are in condition for allowance. In view of these remarks, an early and favorable reconsideration is respectfully requested.

Respectfully submitted,

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